

# **INFORMATION SHEET**

## **DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** Saint Paul District

**FILE NUMBER:** MVP-2001-06410-RMG

**REGULATORY PROJECT MANAGER:** Rebecca M. Gruber **Date:** January 31, 2005

**PROJECT REVIEW/DETERMINATION COMPLETED:** **In the office (Y/N)** **Y** **Date:** 31 Jan. 2005

**At the project site (Y/N)** **N** **Date:**

### **PROJECT LOCATION INFORMATION:**

State: Wisconsin

County: Ozaukee

Center coordinates of site by latitude & longitude coordinates:  
**43.3239, -87.9221 (NAD 27)**

Approximate size of site/property (including uplands) in acres  
 77 acres

Name or waterway of watershed: Milwaukee

1 unnamed wetland (0.016 acre)

Type of Aquatic Resource <sup>1</sup> :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup>	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:**                      Preliminary      Or   Approved      **X**

**ADDITIONAL INFORMATION SUPPORTING NJD** (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite):

The subject wetland is a remnant fresh wet meadow. This wetland is approximately 1,664 square feet in size, and is dominated by reed canary grass. In addition, two other wetlands (both “waters of the United States”) are present on the subject property.

The subject wetland lies entirely within Section 17 of Township 10N, Range 22E., Ozaukee County, Wisconsin. As such, the wetland boundaries lie entirely within the State of Wisconsin (intra-state wetlands). This wetland does not display any connection to, nor is it considered adjacent to (separated by roadway or other anthropogenic structure) any waters of the U.S. The nearest connection to any waterway is approximately 400 feet away; therefore, this wetland is considered isolated.

The wetland is not, nor is it likely to be, used by interstate or foreign travelers for recreation, industry, or commerce. The wetland lies on private property, without any public access. In addition, the wetland does not contain fish or shellfish which could be taken and sold. For these reasons, no commerce connection to the wetland has been established.

As indicated above, two other wetlands were found on site, and were determined to lie within the regulatory jurisdiction of the Corps of Engineers pursuant to Section 404 of the Clean Water Act. These two wetlands are part of the tributary system of the Milwaukee River (via Ulao Creek), a navigable water of the United States.